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Special Political and Decolonization Committee (Fourth Committee)

Summary record of the 3rd meeting
Held at Headquarters, New York, on Tuesday, 6 October 2009, at 3 p.m.

Chairperson: Mr. Al-Nasser ..... (Qatar)
later: Mrs. Schroderus-Fox (Vice-Chairperson) ..... (Finland)
later: Mr. Al-Nasser ..... (Qatar)
later: Mr. Petkus (Vice-Chairperson) ..... (Lithuania)

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* Items which the Committee has decided to consider together.

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The meeting was called to order at 3.15 p.m.

Agenda item 35: Information from Non-Self-Governing Territories transmitted under Article 73 *e* of the Charter of the United Nations (*continued*) (A/64/23 and A/64/23/Corr.2 (chaps. VII and XII) and A/64/67)

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Hearing of representatives of Non-Self-Governing Territories and petitioners

Question of New Caledonia (A/C.4/64/6)

1. **The Chairperson** said that, in line with the Committee's usual practice, representatives of Non-Self-Governing Territories and petitioners would be invited to address the Committee and would withdraw after making their statements.

2. **Mr. Gomes** (President of the Government, New Caledonia), after reviewing the salient points of the Nouméa Accord, said that it provided for the emancipation of New Caledonia through a sharing of sovereignty with France. Such shared sovereignty also gave New Caledonia an international role. It was a full member of the Pacific Islands Forum and of the Melanesian Spearhead Group and it maintained representations in the Pacific area. The Government had decided to report the country each year to the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples and to the Fourth Committee on the situation in the country. As part of its international outreach, New Caledonia would continue to participate in the annual seminars of the Special Committee. In that regard, it wished to host the 2010 regional seminar on decolonization.

3. The Matignon and Nouméa Accords had created an enabling environment for more equitable economic and social development and for restoring the balance between the different provinces. Indeed, the provinces owned large stakes in major iron and nickel concerns, and following major efforts to restore balance in land ownership, half of the traditional lands were now owned by the Kanak people. Many measures had been taken to ensure that Kanak identity was taken more broadly into account, including through the restoration of Kanak place names, the introduction of Kanak languages in schools and the presentation of traditional knowledge.

4. Much work remained to be done in terms of education, addressing social inequality, ensuring equitable development across all provinces, and helping young people — some of whom were grappling with alcohol and drug abuse — to fit into the modern world. Referring to paragraph 11 of General Assembly resolution 63/106, he said that he had invited all the pro- and anti-independence advocates to begin discussions with a view to holding during the fourth (five-year) term of the Congress (between 2014 and 2019) of the referendum provided for under the Nouméa Accord.

5. **Ms. Lauouvea** (Front de libération nationale kanak socialiste (FLNKS)) said that the Nouméa Accord was a decolonization agreement, which would lead to the fullest form of autonomy for New Caledonia under the French Republic. That minimum consensus should undergird all public policies and actions. Since the Nouméa Accord provided for a transfer of powers to New Caledonia, the Territory's governance would have to be improved to give New Caledonians full ownership of decision-making. In that regard, New Caledonia's human resources needed to be developed.

6. In order to ensure that the country's development was sustainable, its economy would have to be diversified, including through the use of earnings from nickel, which could also be used to address imbalances

in provincial development. There were also problems with respect to financing for development and to the implementation of structural reforms designed to put public finances on a sound footing. The uneven distribution of wealth was also of great concern; over a quarter of the population lived below the poverty threshold and many did not have decent housing.

7. FLNKS continued to promote the idea of sharing a common destiny, which might become a nationality, should New Caledonians so decide. In 1998, New Caledonians had accepted the challenge of showing that decolonization could proceed democratically and peacefully. However, that process required the development of transparent public policies. She therefore called on the United Nations, five years prior to the referendum on self-determination provided for under the Accord, to assist the country in assessing its public policies to ensure that the hopes raised by the Nouméa Accord would not be dashed.

Question of the United States Virgin Islands (A/C.4/64/4 and Add.1)

8. **Mr. Browne**, speaking in his personal capacity, said that the failure to end slavery at the moment of transfer of the Danish West Indies was a wrong that must be corrected and for which an apology must be made. In that regard, he called on the Danish and United States authorities to establish a truth and reconciliation commission to address the historical inaccuracies and concerns raised by many individuals both in Denmark and the United States Virgin Islands. The elderly inhabitants of the United States Virgin Islands deserved a dignified resolution to their status. It was in the best interest of humanity that there should be reconciliation between the peoples of the Virgin Islands, Denmark and the United States of America. Governments around the world should work more aggressively to abolish the terrible systems of slavery and colonialism.

9. *Mrs. Schroderus-Fox (Finland), Vice-Chairperson, took the Chair.*

10. **Mr. James II** (Fifth Constitutional Convention of the United States Virgin Islands) said that the work of the Constitutional Convention — especially the drafting process and the launch of the critical education phase — had been considerably hampered by a lack of resources. In that regard, he trusted that, should the administering Power be unwilling to provide assistance consistent with Article 73 *b* of the Charter of the United Nations, it would facilitate access by the Territory to United Nations electoral assistance.

11. Reviewing the provisions of the draft constitution, he noted that it provided, inter alia, for a broader definition of a native Virgin Islander as having been born in the territory or as being a descendant of a native-born person. The reference to native Virgin Islanders in the constitution was vital given the fact that the Territory's native-born population was on the decline; according to the most recent figures, they accounted for 51.3 per cent of the population. That decline had significant implications for the self-identity of the people. Related provision were that only ancestral or native Virgin Islanders could be appointed as governor or lieutenant governor and that ancestral Virgin Islanders should be exempt from property tax. He wanted to know why similar provisions on native rights were part of the constitutions of other United States-administered Non-Self-Governing Territories yet appeared to be objectionable to certain interests in the case of the Virgin Islands.

12. The Fifth Constitutional Convention was confident that it would win the suit it had filed in the Territory's Superior Court against the Governor's unilateral decision not to transmit the draft constitution to the administering Power on the grounds that some provisions thereof were inconsistent with the United States Constitution as it applied to the Territory, thus paving the way for the Territory's next step along the path towards a full measure of self-government.

Question of Western Sahara (A/C.4/64/5, A/C.4/64/5/Add.1-9, 13-21, 36, 38, 54, 58)

13. **Ms. Huff** (Teach the Children International) said that five concrete steps could be taken to make a difference in the lives of thousands of Saharawi people living in camps in Algeria and Morocco. They included continuing dialogue between the Frente Popular para la Liberación de Saguía el-Hamra y de Río de Oro (Frente Polisario) and Morocco; promoting the economic development of the disputed area; collecting accurate data, including a head count on the Saharawi situation; investigating human rights violations, including slavery, forced detention, restriction of movement and denial of work; and the adoption of the proposed autonomy plan. Although in the past she had worked in support of the referendum, she now urged the Committee to endorse the autonomy plan so that the

Saharawi people could begin immediately to interact with the rest of the world.

14. **Ms. Farish** (Attorney at Law) said that the question of the Saharawi people had taken on new importance with recent reports that they were becoming targets for Al-Qaida recruitment. She suggested that the Saharawi people might benefit from a "dependent sovereign" status similar to that enjoyed by Native Americans in the United States of America. A gradual approach to independence was best. If the Frente Polisario or the Saharawi Arab Democratic Republic (SADR) wished to speak for the Saharawi people, they needed to demonstrate a clean human rights record, transparent finances, a readiness to compromise and a willingness to allow a census to be taken by neutral experts. The Committee should consider making further aid and further negotiations conditional on those factors. As part of the confidence-building measures programme, family visits by land should be permitted in addition to the existing family visits by air.

15. **Ms. Basinet**, speaking in her personal capacity, said that, as a community that lived "off the grid", the Saharawi people could benefit greatly from solar energy. There were a number of innovative, inexpensive and easily assembled solar devices that had been used successfully in places like Ethiopia and Afghanistan and could help the Saharawi people take part in development.

16. **Ms. Banda** (Christ the Rock Community Church) said that in lieu of criticizing the United Nations failure to enforce the Saharawi people's right to self-determination, she would offer unfiltered eyewitness testimony. She read two autobiographical accounts by refugees describing their lifelong yearning for a homeland, their harsh living conditions, and their disappointment with the bad faith of both Morocco and the United Nations in postponing the referendum.

17. **Ms. Lenz** (Not Forgotten International) said that she had been working in refugee camps for 10 years. She read several letters from refugee children describing their harsh living conditions and their yearning for a homeland.

18. **Ms. Stanley**, speaking in her personal capacity, said that it would be inhumane to ignore the Saharawi people's cries for self-determination any longer.

19. **Mr. Stanley** (RockFish Church) said that it was high time that the United Nations honoured its promise, pursuant to the Declaration on decolonization, by organizing a referendum in Western Sahara to allow the people of that Territory to express their right to self-determination

20. **Mr. Kustusch**, speaking in his personal capacity, said that on his recent trip to SADR, he had learned that the Saharawi people were well equipped to build a viable State that would be a good neighbour to Morocco and a constructive member of the international community. Against all odds, the refugees had built infrastructure, services, an educational system, a health-care system and a professional army and police. Although not perfect, the Frente Polisario government-in-exile was more democratic than the Governments of many States Members of the United Nations. He urged Morocco to acknowledge, and the United Nations to enforce, the principle of decolonization provided for in the Charter of the United Nations.

21. **Monsignor Abboud**, speaking in his personal capacity, expressed support for the efforts of the international community to resolve the conflict in the Western Sahara as well as for the autonomy plan. He then quoted from the testimony of Abdel Jalil Ould Khouna, a Mauritanian, and former member of the Frente Polisario, who had been accused of collaborating with the French and Mauritanian secret services, imprisoned for five years in the Tindouf camps, and tortured so badly that he had lost the use of his right arm. That testimony, along with many others, had been delivered to the Office of the Secretary-General the previous year, along with a demand that an international investigation be opened into such documented serious human rights violations as kidnapping, arbitrary arrest, torture, genocide and violence against women committed by the Frente Polisario.

22. He reminded the parties involved in the rounds of negotiations that the International Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity and the International Covenant on Civil and Political Rights were applicable to the Western Sahara conflict, which would be resolved only after equitable compensation had been paid to the victims of human rights violations and the perpetrators of such violations had been prosecuted.

23. *Mr. Al-Nasser (Qatar), Chairperson, resumed the Chair.*

24. **Ms. Stevens** (Robert F. Kennedy Center for Justice and Human Rights), speaking on behalf of Ms. Aminatou Haidar, 2008 Robert F. Kennedy Human Rights Award laureate, said that the Moroccan Government had committed gross human rights abuses against Saharawis because of their participation in peaceful demonstrations in support of self-determination. Repressive measures had included killings, kidnapping, forced disappearances, torture, curtailing freedom of expression and denial of medical treatment. She deplored the complete silence of the international community in the face of those violations.

25. Saharawi human rights organizations had not been allowed to register and thus to organize meetings. Students had been prevented from travelling to participate in a conflict resolution programme. She called upon the Organization to expand the mandate of the United Nations Mission for the Referendum in Western Sahara (MINURSO) and appealed to it to take measures to ensure respect for the dignity and fundamental human rights of the Saharawi people by Morocco.

26. **Ms. Nedrebo** (United Nations Association of the United States of America) expressed full support for the United Nations efforts in the Western Sahara and hoped that they would culminate in the exercise by the people of Western Sahara of their right to self-determination in a free and fair referendum. The mandate of MINURSO should be extended to cover human rights in the areas where it was deployed.

27. Her Association had been supporting Saharawi refugees in many ways, including through a library project designed to expand opportunities for knowledge and research and through the provision of access to technology and information for Saharawi women in the refugee camps in Algeria.

28. **Ms. García Díaz** (Fundación Sahara Occidental) read out a declaration adopted unanimously by all the assemblies and parliaments of Spain. The declaration congratulated the Saharan people and their sole legitimate representative, the Frente Polisario, for both their endurance and openness to dialogue; welcomed the Manhasset rounds of talks and urged international organizations, especially the United Nations, through the Security Council and the European Union, to assume Spain's responsibilities in the matter, so that the necessary conditions could be created for the holding of a referendum on self-determination; condemned all human rights violations in the Territory; called for the release of all the reports produced by the United Nations High Commissioner for Human Rights on the human rights situation in Moroccan-occupied Western Sahara; urged the Fourth Committee to formally declare the Western Sahara an "occupied territory" to which international humanitarian law, including the Fourth Geneva Convention of 1949, would be applicable; called upon the Secretary-General to expand the mandate of MINURSO to cover human rights. Furthermore, it urged the European Union to denounce the flagrant violations of international human rights law by Morocco in the Territory; urged the European Union not to enter into agreements with Morocco on the exploitation of the natural resources of Western Sahara, since such agreements would be inconsistent with international law. Lastly, neither Spain nor any member of the European Union should sell arms to Morocco.

29. **Mr. Loza Aguirre** (Member of the Basque Parliament) expressed the hope that the decolonization of Western Sahara would soon be completed. Describing a recent visit to Laayoune, he noted that the Moroccans there were either fervent advocates of their country's claim to Western Sahara as a southern province or were in internal exile as punishment, reminiscent of Franco-era Spain. Western Saharans, on the other hand, were considered strangers in their own land and were ordered to keep their identity as a people to themselves. Any manifestation of such identity in public was violently suppressed. Those who were mistreated for exercising their rights were warned against reporting those violations. Nevertheless, the majority still wished to exercise their right to self-determination.

30. Those violations occurred despite the presence of the United Nations in the Territory. The Moroccan Government refused to recognize and to register several Saharawi human rights associations, even after it had been ordered by the courts to do so. He called on the United Nations to protect the basic rights of the people of Western Sahara to life, physical integrity, and to form associations recognized under Moroccan law. The Organization should also ensure the decolonization of Western Sahara.

31. **Mr. López Ortiz** (Federación Estatal de Instituciones Solidarias con el Pueblo Saharaui) said

that the mandate of MINURSO should be expanded to include the protection of the human rights of the Western Saharan people who, as long as Morocco mocked United Nations agreements and international law, would never be able to exercise their right to self-determination.

32. The only just and lasting solution to the conflict would be to give the Saharan people the opportunity to exercise their right to self-determination through a referendum, in the presence of observers. Although that was the goal pursued under the Settlement Plan, the Houston Agreements and the Baker Plan, the international community was too tolerant of the intransigence on the part of Morocco and its illegal occupation and exploitation of the Territory's resources, including its fisheries. The European Union was clearly guilty of that policy of appeasement towards Morocco.

33. Noting that Spain, which was still the administering Power of Western Sahara, would soon take over the rotating presidency of the European Union, he appealed to its Government, given its historic and moral responsibilities in the matter, to spearhead the search for a just and lasting solution to the conflict.

34. The peace and security of the whole of North-West Africa were at stake. The time had come to impose a solution. If the Security Council could not offer any other alternatives to the Baker Plan, then it should move from Chapter VI to Chapter VII of the Charter of the United Nations in order to ensure that the heroic people of Western Sahara, who had suffered so much, could live in peace and dignity and freely determine their own future.

35. **Ms. Aït-Baala** (Action Internationale Femmes), noting that a more realistic approach should be taken to that thorny issue, said that the initiative of negotiating an autonomy status for the Sahara region would open a new chapter in the region's history. The international community should back that effort in order to put an end to some 34 years of suffering, of some 50,000 people living on humanitarian assistance in terrible conditions in the camps in Algeria. The Office of the United Nations High Commissioner for Refugees must discharge its duty and conduct a census. If the international community could not guarantee the refugees' right of return or their security or basic human rights, then it should seriously consider moving them to another State altogether.

36. While the international community should not forget the direct victims of the conflict, it should also bear in mind that there were collateral victims, including 350,000 Moroccans who had been summarily deported from Algeria in 1975 in retaliation for the Green March, and 210 forced disappearances. It was absolutely imperative that the United Nations put an end to the conflict in the region so that the parties concerned could focus on strengthening the Arab Maghreb Union.

37. **Mr. Briones Vives** (International Association of Jurists for Western Sahara) said that the issue was definitely a matter of decolonization and that Morocco was occupying territory it had invaded. Its claims were illegitimate and a referendum on self-determination must not be subject to a prior agreement between the Saharan people and Morocco. Morocco must comply with the general principles of international law, including the principle of the erga omnes right to self-determination.

38. *Mr. Petkus (Lithuania), Vice-Chairperson, took the Chair.*

39. **Mr. Debeche**, speaking in his personal capacity as a Professor of Political Science at the University of Algiers, said that the Moroccan autonomy plan was an old colonial tactic designed to perpetuate occupation under another name. It was highly ironic that in 1991 the Moroccan army had fought alongside allied forces for the liberation of Kuwait from Iraqi occupation while Morocco was itself already occupying the Western Sahara. Morocco had taken a number of other contradictory positions. It had divided Western Sahara with Mauritania and built a 2,400 km wall dividing the Territory into two, both tacit admissions that the Territory was not Moroccan. It had been willing to recognize Mauritanian independence after initially claiming Mauritania as part of Morocco. It had even recognized the right of Western Sahara to independence prior to its 1975 invasion. Morocco had no reason to fear an independent Western Sahara. The Frente Polisario had repeatedly declared its intention to be a constructive neighbour to Morocco, and SADR was already a founding member of the African Union.

40. **Ms. Boulmerka**, speaking in her personal capacity as an Olympic champion, said that it particularly pained her that young Saharawi athletes

could not aspire to represent their people in international competition. She urged the Committee to take prompt action to free the Saharawi people from Moroccan colonialism.

41. **Mr. Machín**, speaking in his personal capacity, said that the problem of Western Sahara had been created by the Franco regime in Spain and exploited by Morocco in order to expand its territory. Algeria, Morocco, the United Nations and the Arab Maghreb Union needed to negotiate a solution that established Western Sahara as an autonomous region with a status similar to that of the Autonomous Community of the Canary Islands, which could be a first step to integration into a more decentralized North African community. It would also be necessary to resolve the problems of the Saharan population as a whole within a democratic framework ensuring full respect of their human rights.

42. Although there were considerable vested interests that would oppose any such proposals, the proposals would by and large satisfy key requirements of all the interested parties. For instance, they should be welcomed by Morocco, because its territorial integrity would be safeguarded; Algeria would be relieved that an independent State, which might incite separatism among Algerian Saharans, would not be established in the region; Tunisia, Libya and Mauritania would welcome the removal of a major obstacle to the Arab Maghreb Union; the European Union would welcome greater stability in North Africa that would absorb some of the migratory pressure from sub-Saharan Africa; while the United Nations would have settled yet another international conflict.

43. **Mr. Hamoudi**, speaking in his personal capacity, said that even though there was no country in the world that recognized Moroccan sovereignty over Western Sahara and even though both the United Nations General Assembly and the International Court of Justice had recognized the right of the Saharawi people to self-determination, nothing was being done to advance Saharawi independence. Hundreds of thousands of Saharawis, including his own family, continued to live in deplorable conditions in Algeria, while those in Moroccan-occupied areas were subject to degrading human rights abuses. If there was any reason for a Special Political and Decolonization Committee to exist, it was to ensure the right of self-determination in cases such as that of the Saharawi people. They should be allowed to express their will immediately in a free, fair and democratic referendum.

44. **Lord Newall** (International Committee for Tindouf Prisoners) said that the Tindouf camps were concentration camps where prisoners were held in squalid conditions by Algeria as a bargaining chip. The United Nations should be doing more to collect information on those who had perished in those camps and on children who had been sent thousands of miles away from their homes for "education". Only after people were freed from those prison camps could Morocco and Algeria begin meaningful negotiations.

The meeting rose at 6 p.m.